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is the date of receipt of the subsequent communication.

(Authority: 38 U.S.C. 5103(a))

(b) *Failure to furnish claim or notice of time limit.* (1) VA's failure to furnish any form or information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the periods allowed for these actions.

(2) VA's failure to furnish an eligible person notice of the time limit within which evidence must be submitted to perfect a claim, or notice of the time limit within which to challenge an adverse VA decision, shall extend the time limit for such action in accordance with the provisions of § 3.110 of this chapter.

(Authority: 38 U.S.C. 5101, 5113)

(3) When a claim is incomplete, time limits within which a claimant or beneficiary is required to complete the claim through submission of evidence, documents or other information may be extended for good cause shown. The time limits within which a claimant or beneficiary must act to challenge an adverse VA decision may be extended for good cause shown. Except as provided in § 19.130 of this chapter when an extension is requested after expiration of a time limit, the action required of the claimant or beneficiary must be taken concurrently with or prior to the filing of a request for extension of the time limit, and good cause shown as to why the required action could not have been taken during the original time period and could not have been taken sooner than it was. Denials of time limit extensions are separately appealable issues.

(Authority: 38 U.S.C. 5101, 5113)

(c) *Time limit for filing a claim for an extended period of eligibility.* A claim for an extended period of eligibility provided by § 21.3046(d) must be received by the Department of Veterans Affairs by the latest of the following dates:

(1) One year from the date on which the spouse's or surviving spouse's original period of eligibility ended.

(2) One year from the date on which the spouse's or surviving spouse's physical or mental disability no longer prevented him or her from beginning or

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resuming a chosen program of education.

(3) October 17, 1981.

(Authority: 38 U.S.C. 3512)

CROSS REFERENCES: *Due process; procedural and appellate rights with regard to disability and death benefits and related relief.* See § 3.103.

Computation of time limit. See § 3.110.

[30 FR 15632, Dec. 18, 1965, as amended at 39 FR 43220, Dec. 11, 1974; 48 FR 37973, Aug. 22, 1983; 50 FR 16702, Apr. 29, 1985; 54 FR 28677, July 7, 1989; 58 FR 63530, Dec. 2, 1993; 61 FR 26108, May 24, 1996]

ELIGIBILITY AND ENTITLEMENT

§ 21.3040 Eligibility; child.

(a) *Commencement.* A program of education or special restorative training may not be afforded prior to the eligible person's 18th birthday or the completion of secondary schooling, whichever is earlier, unless it is determined through counseling that the best interests of the eligible person will be served by entering training at an earlier date and the eligible person has passed:

(1) Compulsory school attendance age under State law; or

(2) His or her 14th birthday and due to physical or mental handicap may benefit by special restorative or specialized vocational training.

(b) *Secondary schooling.* *Completion of secondary schooling* means completion of a curriculum offered by a public or private school which satisfies the requirements for a high school diploma or its equivalent—usually completion of the 12th grade in the public school system.

(c) *Age limitation for commencement.* No person is eligible for educational assistance who reached his or her 26th birthday on or before the effective date of a finding of permanent total service-connected disability, or on or before the date the veteran's death occurred, or on or before the 91st day of listing by the Secretary concerned of the member of the Armed Forces on whose service eligibility is claimed as being in one of the missing status categories of § 21.3021 (a)(1)(iv) and (3)(ii).

(d) *Termination of eligibility.* No person is eligible for educational assistance beyond his or her 31st birthday, except

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as provided under § 21.3041(e)(2). In no event may educational assistance be provided after the period of entitlement has been exhausted. In an exceptional case special restorative training may be provided in excess of 45 months. See § 21.3300.

(Authority: 38 U.S.C. 3512(a))

[30 FR 15632, Dec. 18, 1965, as amended at 34 FR 842, Jan. 18, 1969; 39 FR 38227, Oct. 30, 1974; 40 FR 42879, Sept. 17, 1975; 41 FR 47929, Nov. 1, 1976; 43 FR 35290, Aug. 9, 1978]

§ 21.3041 Periods of eligibility; child.

(a) *Basic beginning date.* The basic beginning date of an eligible child's period of eligibility is his or her 18th birthday or successful completion of secondary schooling, whichever occurs first. See paragraph (b) of this section and § 21.3040 (a) and (b).

(Authority: 38 U.S.C. 3512(a))

(b) *Exceptions to basic beginning date.*

(1) An eligible child may have a beginning date earlier than the basic beginning date when he or she has:

(i) Completed compulsory school attendance under applicable State law, or

(ii) Passed his or her 14th birthday and has a physical or mental handicap. See § 21.3040(a).

(2) The eligible child may have a beginning date later than the basic beginning date when any of the following circumstances exist.

(i) If the effective date of the permanent and total disability rating is before the child has reached 18 but the date of notification to the veteran from whom the child derives eligibility occurs after the child has reached 18, the beginning date of eligibility shall be the basic beginning date as determined in paragraph (a) of this section, or the date of notification to the veteran, whichever is more advantageous to the eligible child.

(ii) If the effective date of the permanent and total disability rating occurs after the child has reached 18 but before he or she has reached 26, the beginning date of eligibility will be the effective date of the rating or the date of notification to the veteran from whom the child derives eligibility, whichever

is more advantageous to the eligible child.

(Authority: 38 U.S.C. 3512(a)(3), 3512(d))

(iii) If the child becomes eligible through the death of a veteran, the date of death will be the beginning date of eligibility if it occurs after the child's 18th birthday and before his or her 26th birthday.

(iv) The child may become eligible through qualifying as the veteran's adopted child (see § 3.57(c)) or by becoming a stepchild of the veteran and a member of the veteran's household. If either of these events occurs after the child's 18th birthday and before his or her 26th birthday, the effective date of eligibility will be whichever of the following is appropriate:

(A) The date the child qualifies as an adopted child under § 3.57(c), or

(B) The date the child becomes the veteran's stepchild and a member of his or her household.

(Authority: 38 U.S.C. 3501)

(c) *Basic ending date.* The eligible person's 26th birthday.

(d) *Modified ending date.* When one of the following occurs between ages 18 and 26, the ending date will be the eligible person's 26th birthday or 8 years from the date of happening specified in paragraphs (d) (1) to (7) of this section and 10 years in paragraph (d)(8); whichever is later. When paragraph (d)(9) is applicable, the ending date will be as stated in paragraph (d)(9). Where the ending date is subject to modification under more than one of paragraph (d) (3), (4), (5), (6) or (7) of this section, the more favorable date will apply. In no case will the modified ending date extend beyond the eligible person's 31st birthday.

(Authority: 38 U.S.C. 3512).

(1) Effective date of permanent total rating of veteran-parent or the date of notification to him or her of such rating, whichever is the more advantageous to the eligible person.

(Authority: 38 U.S.C. 3512)

(2) Death of veteran-parent.

(3) Date of first unconditional discharge or release from "duty with the Armed Forces" served as an eligible